

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ESTHER HOFFMAN; SARAH DOUGLASS;
ANTHONY KIM; and IL KIM and DARIA KIM,
husband and wife and the marital community
comprised thereof, on behalf of themselves and on
behalf of others similarly situated,

Plaintiffs,

VS.

TRANSWORLD SYSTEMS INCORPORATED; PATENAude AND FELIX, A.P.C.; MATTHEW CHEUNG, and the marital community comprised of MATTHEW CHEUNG and JANE DOE CHEUNG; National Collegiate Student Loan Trust 2004-2; National Collegiate Student Loan Trust 2005-2; National Collegiate Student Loan Trust 2005-3; National Collegiate Student Loan Trust 2006-1; National Collegiate Student Loan Trust 2006-3; National Collegiate Student Loan Trust 2007-4.

Case No. C18-1132 TSZ

DECLARATION OF CHRISTINA L
HENRY IN SUPPORT OF
PLAINTIFFS' RESPONSE TO
TRANSWORLD SYSTEM
INCORPORATED'S MOTION FOR
SUMMARY JUDGMENT

Defendants.

I, Christina L Henry, declare as follows:

1. I am over eighteen years of age and am competent to testify herein. I am one of the attorneys representing the Plaintiffs ESTHER HOFFMAN; SARAH DOUGLASS; ANTHONY KIM; and IL KIM and DARIA KIM, husband and wife and the marital community comprised thereof, on behalf of themselves and on behalf of others similarly situated in this case, and the following statements are based on my personal knowledge and my review of the files and records in this matter.

DECLARATION OF CHRISTINA L HENRY IN SUPPORT OF
PLAINTIFFS' RESPONSE TO TRANSWORLD SYSTEM
INCORPORATED'S MOTION FOR SUMMARY JUDGMENT -

1
(No. C18-1132 TSZ)

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SEATTLE, WA 98104
206-933-7861 phone 206-933-7863 fax

1 2. On behalf of the Plaintiffs to date, I have reviewed more than nine sets of
2 rolling discovery in response to written discovery requests to Transworld Systems, Inc.
3 (“TSI”) and there they have not produced one document that says “Schedule 1” or
4 “Schedule 2.”

5 3. Attached hereto as **Exhibit A** is a true and correct copy of an excerpt from
6 Defendant Transworld Systems Incorporated’s (“TSI’s”) Fifth Amended and
7 Supplemental Responses to Plaintiffs’ First Request for Production for Documents, with
8 the following documents referenced in response to Request for Production No. 12 attached
9 hereto as follows:

- 10 a) **Exhibit A12-21.** August 2014 NCO Financial Systems Attorney Network
11 Standard Operating Procedures Version 6.0.
- 12 b) **Ex. A12-22.** January 2015 Transworld Systems Inc. Attorney Network Standard
13 Operating Procedures Version 6.1.
- 14 c) **Ex. A12-23.** January 2016 Transworld Systems Inc. Attorney Network Standard
15 Operating Procedures Version 6.2.

16 4. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of the
17 transcript of the May 16, 2017 deposition of TSI’s CR 30(b)(6) deponent Bradley Luke, in
18 King County, Washington Superior Court Case No. 15-2-03146-3, 15-2-03144-7, 15-2-
19 04016-1, 15-2-04015-2, 15-2-04465-4, and 15-2-04014-4, *National Collegiate Student*
20 *Loan Trust(s) v. Tony Kim, Daria Kim, and Il Kim*. In these five cases, I represented
21 Defendants Tony Kim and his parents Daria Kim and Il Kim, and I personally took
22 Bradley Luke’s testimony at the deposition.

23 5. Attached hereto as **Exhibit C** is a true and correct copy of excerpts of the
24 transcript of the February 29, 2020 trial testimony of Bradley Luke, testifying on behalf of
25 TSI, in King County, Washington Superior Court Case No. 18-2-08347-8 SEA, in
26 *National Collegiate Student Loan Trust 2006-1 v. Shauna M. Tachibana*. In this case, I

1 represented Plaintiff Shawna M. Tachibana and was present in the courtroom for this
2 trial testimony.

3 6. A court may take judicial notice of matters of public record, including
4 documents filed in and decisions of other courts. *Lee v. City of Los Angeles*, 250 F.3d 668,
5 689-90 (9th Cir. 2001). The Court must take judicial notice of a judicially noticeable fact
6 “if requested by a party and supplied with the necessary information.” Fed. R. Evid.
7 201(c). Pursuant to Fed. R. Evid. 201(c), I am requesting that the Court take judicial notice
8 of the following attached documents, which documents are on file in the underlying state
9 court collection actions brought by National Collegiate Student Loan Trust (“NCSLT”).

10 **1. Snohomish County Superior Court, Cause No. 15-2-03144-7**

Ex. #	State	Filing Date	Document Description
Docket #			
D			Docket for <i>National Collegiate Student Loan Trust 2005-2 v. Tony Kim and Daria Kim</i> , Case No. 15-2-03144-7, filed in the Snohomish County Superior Court in the State of Washington,
D-1	4	04/02/2015	Motion for Default
D-2	4	04/02/2015	Affidavit and Verification of Account

16 **2. Snohomish County Superior Court, Cause No. 15-2-03146-3**

Ex. #	State	Filing Date	Document Description
Docket #			
E			Docket for <i>National Collegiate Student Loan Trust 2005-2 v. Tony Kim and Daria Kim</i> , Case No. 15-2-03146-3, filed in the Snohomish County Superior Court in the State of Washington
E-1	4	04/02/2015	Motion for Default
E-2	4	04/02/2015	Affidavit and Verification of Account

21 **3. Snohomish County Superior Court, Cause No. 15-2-04014-4**

Ex. #	State	Filing Date	Document Description
Docket #			
F			Docket for <i>National Collegiate Student Loan Trust 2007-4 v. Tony Kim and Il Kim</i> , Case No. 15-2-04014-4 filed in the Snohomish County Superior Court in the State of Washington
F-1	4	05/28/2015	Motion for Default
F-2	4	05/28/2015	Affidavit and Verification of Account

4. Snohomish County Superior Court, Cause No. 15-2-04015-2

Ex. #	State Docket #	Filing Date	Document Description
G			Docket for <i>National Collegiate Student Loan Trust 2006-1 v. Tony Kim and Il Kim</i> , Case No. 15-2-04015-2 filed in the Snohomish County Superior Court in the State of Washington
G-1	4	05/28/2015	Motion for Default
G-	4	05/28/2015	Affidavit and Verification of Account

5. Snohomish County Superior Court, Cause No. 15-2-04016-1

Ex. #	State Docket #	Filing Date	Document Description
H			Docket for <i>National Collegiate Student Loan Trust 2005-3 v. Tony Kim and Il Kim</i> , Case No. 15-2-04016-1, filed in the Snohomish County Superior Court in the State of Washington,
H-1	4	05/28/2015	Motion for Default
H-2	4	05/28/2015	Affidavit and Verification of Account

6. King County Superior Court, Cause No. 15-2-15162-31

Ex. #	State Docket #	Filing Date	Document Description
I		Docket for <i>National Collegiate Student Loan Trust 2004-2 v. Esther Hoffman</i> , Case No. 15-2-15162-31, filed in the King County Superior Court in the State of Washington,	
I-1	8	08/25/2016	Motion for Default
I-2	8	08/25/2016	Affidavit and Verification of Account

7. King County Superior Court, Cause No. 17-2-10604-6

Ex. #	State Docket #	Filing Date	Document Description
J	Docket for <i>National Collegiate Student Loan Trust 2006-3 v. Sarah K. Douglas</i> , No. 17-2-10604-6, filed in the King County Superior Court in the State of Washington,		
J-1	7	04/25/2017	Motion for Default
J-2	7	04/25/2017	Affidavit and Verification of Account

8. King County Superior Court, Cause No. 17-2-10605-4

Ex. #	State Docket #	Filing Date	Document Description
K			Docket for <i>National Collegiate Student Loan Trust 2006-3 v. Sarah K. Douglas</i> , Case No. 17-2-10605-4, filed in the Snohomish County Superior Court in the State of Washington,

K-1	7	04/25/2017	Motion for Default
K-2	8	04/25/2017	Order of Default and Default Judgment

7. Pursuant to Fed. R. Evid. 201, I am requesting that the Court take judicial notice of the following attached documents, which document are on file in the United States District Court for the District of Delaware, *Consumer Financial Protection Bureau v. The National Collegiate Master Student Loan Trust et al.*, Case No. 17-cv-01323-GMS:

Ex. #	Federal Docket #	Filing Date	Document Description
L-1	54-1	11/01/2017	Declaration of Carolyn Hahn in Support of Plaintiff Consumer Financial Protection Bureau's Response to Motions to Intervene
L-2	54-3	11/01/2017	Ex. B – Amended and Restated Private Student Loan Servicing Agreement Between Pennsylvania Higher Education Assistance-Agency and The First Marblehead Corporation

8. Pursuant to Fed. R. Evid. 201, I am requesting that the Court take judicial notice of the following attached documents, which documents are on file in the Delaware Chancery Court, *In Re National Collegiate Student Loan Trusts Litigation*, Case No. 12111-VCS.

Ex. #	State Docket #	Filing Date	Document Description
M-1	54-1	07/01/2016	Ex. A - The PHEAA Audit
M-2	54-3	06/15/2018	Verified Amended Complaint for Injunctive and Equitable Relief and Damages

9. Pursuant to Fed. R. Evid. 201, I am requesting that the Court take judicial notice of the following document attached hereto as **Exhibit N**, which I retrieved online at the following website on July 19, 2021:

https://efaidnbmnnibpcajpcglclefindmkaj/viewer.html?pdfurl=https%3A%2F%2Fag.ny.gov%2Fsites%2Fdefault%2Ffiles%2F09.11.2020_tsi_aod_final.pdf&clen=411929&chunk=true, which is TSI's "Assurance of Discontinuance" entered into with the Attorney

1 General of the State of New York, Bureau of Consumer Frauds & Protection (Assurance
2 No. 20-061), dated September 11, 2020.

3 9. The parties are negotiating the terms of a stipulated order pertaining to the
4 protection of documents deemed "Confidential" by the parties. As part of the negotiation and
5 until an appropriate protective order is entered, Plaintiffs have agreed to protect the
6 confidentiality of documents deemed "Confidential" by the Defendants. Pursuant to the proposed
7 protective order, the parties agreed, "Before filing confidential material or discussing or
8 referencing such material in court filings, the filing party shall confer with the designating party,
9 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
10 remove the confidential designation, whether the document can be redacted, or whether a motion
11 to seal or stipulation and proposed order is warranted."

10. The documents attached to the Motion to Seal filed contemporaneously with this
11 declaration were marked as "Confidential" by TSI. On July 19, 2021, Plaintiffs' requested a
12 discovery conference with counsel for TSI to discuss whether parts of certain documents could
13 be filed in support of the Plaintiffs' response to TSI's Motion for Summary Judgment with
14 redactions, or whether a motion to seal would be necessary. An hour and a half after sending the
15 request, I telephoned counsel for TSI to meet and confer about the documents. TSI's counsel
16 informed me that although Plaintiffs had permission to temporarily file the documents under
17 seal, TSI needed additional time to confer with their client and other Defendants' legal counsel,
18 one of whom is currently out of town and unavailable, about the nature of the redactions needed.
19 Accordingly, Plaintiffs request leave of Court to file the documents that are attached to the
20 Motion to Seal under seal.

1 I declare under penalty of perjury under the laws of the State of Washington that the
2 foregoing is true and correct.

3 SIGNED in Seattle, Washington, on July 19, 2021.

4 /s/ Christina L Henry
5 Christina L. Henry, WSBA #31273
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